

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, December 6, 2013
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairman John W. Harris
Vice Chairman Robert E. Mansell
Commissioner Kurt R. Davis
Commissioner Edward "Pat" Madden

Director Larry D. Voyles
Deputy Director Ty E. Gray
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals was legally noticed for this hearing.

Name	Docket #	Count	Conviction
Juan Bejar	2013-0046	Count A:	Possess/Transport Unlawfully Taken Wildlife (Javelina)
Robert J. Small	2013-0056	Count C:	Take Wildlife Unlawful Method
		Count D:	Possess/Transport Unlawfully Taken Wildlife
		Count E:	Unlawful Possession of Wildlife Parts
Richard V. Nielsen	2013-0057	Count A:	Possess Unlawfully Taken Wildlife (Trout)
		Count B:	Exceed Bag Limit
		Count C:	Exceed Possession Limit
David E. Nord	2013-0059	Count A:	Obtain Resident Hunting License by Fraud

Roll call was taken and the following were present: Robert Small and Richard Nielsen.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Mansell moved and Davis seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous
4 to 0

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Robert J. Small
Docket # 2013-0056

Small was found guilty by the Williams Justice Court for: Count A: Set trap within 30 feet of sight exposed bait; Count B: Use parts of non-game birds as bait; Count C: Take wildlife by unlawful methods; Count D: Possession of unlawfully taken wildlife; and Count E: Unlawful possession of wildlife parts; and sentenced: Fined: \$2,160.00.

Mr. Elms briefed the Commission and reminded them that at the last Commission meeting, the Commission granted a continuance to Mr. Small, which he had requested because he had an appeal in progress. Subsequent to that meeting, Mr. Elms learned that Mr. Small's appeal had lapsed because he failed to follow up with a memorandum to the court from his attorney. The Department received copies of court documents on December 3 and December 5 (copies were provided to the Commission).

Small was present and addressed the Commission stating that he puts his traps under low lying tree limbs and they can't be seen from birds above, and that he used feathers from feather pillows. He feels the judge was misinformed by Officer Antolik about the feathers needing to be in a cubby and because of that, the judge found him guilty. Regarding his appeal, he paid his lawyer and thought he would take care of everything, but he didn't.

Ms. Pollock advised the Commission that the court documents received on December 3 and 5 confirmed that the appeal was filed and then lapsed because the memorandum was not received.

Case Officer Antolik was present and answered questions for the Commission.

Commissioner Mansell commented that in looking at some of the pictures taken of the traps, he believes the feathers can be seen from the air.

Motion: Mansell moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF ROBERT J. SMALL TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT,

CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0

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Richard V. Nielsen
Docket # 2013-0057

Nielsen was found guilty by the Flagstaff Justice Court for: Count A: Possession of unlawfully taken wildlife (trout); Count B: Exceed bag limit; and Count C: Exceed possession limit; and Sentenced: Fined: \$702.00.

The Case Officer was not present.

Nielsen was present and addressed the Commission asking for leniency. He stated that the fishing was really good that morning and they got caught up in the moment. He regrets not being honest up front but was afraid of getting in trouble.

Motion: Madden moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **RICHARD V. NIELSEN** TO **HUNT, FISH, AND TRAP** IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF **THREE (3) YEARS**; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Davis asked if Commissioner Madden and Chairman Harris would agree to a friendly amendment to a two year revocation period.

Chairman Harris and Commissioner Madden.

Vote: Unanimous
4 to 0

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Juan Bejar
Docket # 2013-0046

Bejar was found guilty by the Wilcox Justice Court for: Count A: Possess/transport unlawfully taken wildlife (javelin); and sentenced: Fined: \$236.00.

Bejar was not present.

Motion: Harris moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JUAN BEJAR TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST JUAN BEJAR TO COLLECT THE AMOUNT OF \$500.00 FOR THE LOSS OF ONE (1) JAVELINA; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0

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David E. Nord
Docket # 2013-0059

Nord was found guilty by the Hassayampa Justice Court for: Count A: Obtain resident license by fraud; and sentenced: Fined: \$493.00.

Nord was not present.

Motion: Davis moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DAVID E. NORD TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4 to 0

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These hearings concluded at 2:50 p.m.

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